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Cases, Regulations, and Statutes

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CASES, REGULATIONS AND STATUTES

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FEDERAL AGRICULTURAL PROGRAMS

BRUCELLOSIS. The APHIS has issued interim regulations amending the bovine tuberculosis regulations regarding State and zone classifications by raising the designation of Texas from modified accredited advanced to accredited-free. **71 Fed. Reg. 58252 (Oct. 3, 2006)**.

CROP INSURANCE. The FCIC has adopted as final regulations amending the common crop insurance regulations, peanut crop insurance provisions, to remove all references to quota and non-quota peanuts and add provisions that will allow coverage for peanuts whether or not they are under contract with a sheller to better meet the needs of insured producers. The changes will apply for the 2007 and succeeding crop years. **71 Fed. Reg. 55995 (Sept. 26, 2006)**.

The FCIC has extended the comment period to October 26, 2006 on issued proposed regulations amending the common crop insurance regulations; northern potato crop insurance provisions, northern potato crop insurance quality endorsement, northern potato crop insurance processing quality endorsement, potato crop insurance certified seed endorsement, northern potato crop insurance storage coverage endorsement, and the central and southern potato crop insurance provisions to provide policy changes and clarify existing policy provisions to better meet the needs of the insureds, and to reduce vulnerability to fraud, waste and abuse. The changes are intended to apply for the 2008 and succeeding crop years. **71 Fed. Reg. 56049 (Sept. 26, 2006)**.

FARM PROPERTY SALES. The plaintiff attempted to purchase a citrus grove which had been acquired by the FSA through foreclosure. The plaintiff's several bids were rejected by the FSA as too far below the appraised value. However, the FSA eventually sold the land to another party for an amount less than the plaintiff's bid. The plaintiff filed an administrative claim more than two years after the final denial of the plaintiff's bids but less than two years after the winning bid was accepted. The FSA argued that the plaintiff's administrative appeal was barred by the two year statute of limitations on federal tort claims. The plaintiff argued that an action under the Federal Tort Claims Act did not arise until the lower bid was accepted; however, the court held that the actual injury occurred when the plaintiff's bids were rejected; therefore, the plaintiff's action was time barred. **Powers v. USDA, 2006 U.S. Dist. LEXIS 68645 (M.D. Fla. 2006)**.

SECURITY INTERESTS. The GIPSA has issued interim regulations to allow states to use an approved unique identifier as an alternative to a social security number or taxpayer identification number in their systems providing clear title information. The interim regulations also make additional changes to the clear title regulations as required by amendments made by the 2002 Farm Bill. The intended effect of these changes is to protect the identity of the producers of farm products. **71 Fed. Reg. 56338 (Sept. 27, 2006)**.

WAREHOUSES. The FSA has announced that it will allow licensing of temporary storage space for 2006-crop rice and soybeans under the following terms and conditions: (1) such space may be used from the time of initial licensing until March 31, 2007; (2) temporary storage structures must be operated in conjunction with a USWA-licensed warehouse; (3) an asphalt, concrete, or other approved base material must be used; (4) rigid self-supporting sidewalls must be used; (5) aeration must be provided; (6) acceptable covering, as determined by FSA, must be provided; (7) the commodity must be fully insured for all losses; (8) warehouse operators must meet all financial and bonding requirements of the USWA; (9) warehouse operators must maintain a separate record of all rice and soybeans stored in temporary grain storage space and must account for rice and soybeans in the daily position record. **71 Fed. Reg. 58576 (Oct. 4, 2006)**.

FEDERAL ESTATE AND GIFT TAXATION

CHARITABLE DEDUCTION. The decedent had received an interest in a trust under the will of a predeceased spouse. The trust provided for the decedent to receive all income and to have the right to receive principal from the trust. The trust also provided for distribution of the trust assets on the death of the decedent unless the decedent exercised a testamentary power of appointment over the trust assets. The trust also provided that, if the decedent did not exercise the power, the trust assets were to be distributed to several charities. The decedent exercised the testamentary power of appointment by providing for distribution of the trust assets to the residuary estate and further distribution of the residuary estate to pay estate taxes and costs, several specific monetary bequests and the remainder to several charities. The trust claimed a charitable deduction for the payments to the charities, under I.R.C. § 642(c)(1), arguing that the bequests were made pursuant to the original trust document. The court held that the trust was not the governing instrument controlling the charitable bequests because the decedent's specific exercise of the testamentary power of appointment was not controlled by the terms of the trust but merely generally mirrored the trust's provisions. **Brownstone v. United States, 2006-2 U.S. Tax Cas. (CCH) ¶ 50,528 (2d Cir. 2006)**.

VALUATION OF STOCK. The taxpayer owned a closely-held corporation and transferred shares to a trust for the taxpayer's son's in exchange for cash and promissory notes. Some of the notes were self-cancelling upon the death of the taxpayer. The taxpayer filed gift tax returns for the transfers based on appraisals of the stock. The court rejected the valuation of the stock based on the appraisals because the appraisals were based on insufficient evidence that the price of the stock to a willing buyer would be affected by the transfer. The court did allow a 15 percent minority interest discount and a 20 percent discount for lack of marketability. **Dallas v. Comm'r, T.C. Memo. 2006-212**.

FEDERAL INCOME TAXATION

BASIS. The taxpayers inherited an art gallery. The art collection was appraised for federal estate tax purposes and discounts were applied to the fair market value to account for various aspects of the collection, including marketability and wholesale discounts. The taxpayers operated the gallery for a few years using the discounted value of the art collection in determining the costs of goods sold each year. However, the taxpayers filed amended returns using undiscounted values for the collection, based on the original appraised fair market value. The court held that, under the "duty of consistency" doctrine, the taxpayers had to use the discounted value determined for estate tax purposes in valuing the collection for income tax purposes. **Janis v. Comm'r, 2006-2 U.S. Tax Cas. (CCH) ¶ 50,512 (9th Cir. 2006), *aff'g*, T.C. Memo. 2004-117**.

COST-SHARE PAYMENTS. The IRS has determined that some payments received under the federal Conservation Security Program (CSP) are eligible for exclusion from gross income under I.R.C. § 126. The CSP has four financial assistance components: (1) an annual stewardship component for the existing base level conservation treatment; (2) an annual existing practice component for maintaining existing conservation practices; (3) a one-time new practice component for additional needed practices; and (4) an enhancement component for exceptional conservation practices or activities that provide increased resource benefits beyond the prescribed level. The IRS ruled that payments received under component (1) are not excludable from gross income because the payments are based on the rental rate applicable to the land. The IRS also ruled that payments under the enhancement component (4) qualify for exclusion if they are based on an activity's cost rather than on its expected conservation benefits. See the article by Neil E. Harl in this issue, p. 153 supra. **Rev. Rul. 2006-46, 2006-2 C.B. 511**.

DISASTER LOSSES. On September 22, 2006, the president determined that certain areas in Virginia are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of severe storms and flooding, which began on August 29, 2006. **FEMA-1661-DR.** Taxpayers who sustained losses attributable to this disaster may deduct the losses on their 2005 returns.

ELECTRICITY PRODUCTION CREDIT. The IRS has issued interim guidance on the credit for electricity produced from open-loop biomass. The IRS will not issue private letter rulings regarding I.R.C. § 45 as it relates to open-loop biomass or on any issues for partnerships claiming the credit. A renewable electricity production credit is allowed, under I.R.C. § 45, for electricity produced by a taxpayer from qualified energy resources at a qualified facility. Open-loop biomass was added to the definition of qualified energy resources and open-loop biomass facilities was added to the definition of qualified facilities by the American Jobs Creation Act of 2004 (Pub. L. No. 108-357). The Energy Tax Incentives Act of 2005 (Pub. L. No. 109-58) added "any nonhazardous lignin waste material" to the definition of open-loop biomass and extended the deadline for placing open-loop biomass facilities in service to December 31, 2007. The definition was further amended to include "any lignin material." The IRS guidance provides that, for purposes of I.R.C. § 45(d)(3), an open-loop biomass facility is a power plant consisting of all components necessary for the production of electricity from open-loop biomass (and, if applicable, other energy sources), including (1) all burners and boilers, (2) any handling and delivery equipment that supplies fuel directly to and is integrated with such burners and boilers, (3) steam headers, (4) turbines, (5) generators and (6) all other depreciable property necessary to the production of electricity. The facility does not include: (1) property used for the collection, processing or storage of open-loop biomass before its use in the production of electricity; (2) transformers or other property used in the transmission of electricity after its production; or (3) ancillary site improvement, such as roadways and fencing. The guidance further provides that a facility using open-loop biomass to produce both electric and thermal energy through cogeneration may be a qualified open-loop biomass facility. Also, electricity produced from open-loop biomass that is cofired with fuels other than fossil fuels may separately qualify for the credit. The IRS guidance provides that an open-loop biomass facility will not be treated as originally placed in service after October 22, 2004, if more than 20 percent of the facility's total value is attributable to property placed in service on or before October 22, 2004. Similarly, an open-loop biomass facility will not be treated as originally placed in service after August 8, 2005, if more than 20 percent of the facility's total value is attributable to property placed in service on or before August 8, 2005. If electricity produced from open-loop biomass at any location is sold by a taxpayer to an unrelated person and either party simultaneously purchases electricity from an unrelated person for use at the same location, the sale will be treated as a sale to an unrelated person to the extent the amount of electricity sold exceeds the amount purchased. If a taxpayer sells commingled electricity to an unrelated party, only the applicable percentage of the electricity sold to the unrelated party is treated as electricity produced from open-loop biomass. **Notice 2006-88, I.R.B. 2006-42**.

EMPLOYEE EXPENSES. The IRS has announced an update of the simplified per diem rates that employers (or their agents or third parties) can use to reimburse employees for lodging, meals and incidental expenses incurred on or after October 1, 2006 during business travel away from home without the need

to produce receipts. The simplified "high-low" per diem rates have increased to $246 for high-cost localities and to $148 for low-cost localities. The incidental expense per diem remains at $3 per day. **Rev. Proc. 2006-41, I.R.B. 2006-41, *superseding*, Rev. Proc. 2005-67, 2005-2 C.B. 729**.

EMPLOYEES. The taxpayers operated a construction and remodeling business through a trust. The trust employed people as skilled and unskilled labor to perform the construction work. Although some of the workers supplied their own tools, the rest of the materials was supplied by the trust. The work was directed by the taxpayers. The taxpayers treated the workers as independent contractors and did not withhold or pay any employment taxes from the workers' wages. The court held that the workers were employees subject to income and FICA tax withholding because the taxpayers, through the trust, exercised almost complete control over the work performed, the location of the work and the materials used to perform the work. **Orion Contracting Trust v. Comm'r, T.C. Memo. 2006-211**.

ENROLLED AGENTS. The IRS has adopted as final regulations increasing the fees for taking the Special Enrollment Examination, the application for enrollment of enrolled agents, and the renewal of this enrollment. **71 Fed. Reg. 58740 (Oct. 5, 2006)**.

HOBBY LOSSES. The taxpayer was employed as an attorney with two firms. The taxpayer's horse showing and breeding activities started slowly with the purchase of one or two horses at a time which were bred, but several early horses were given away instead of sold. When a horse was sold, the taxpayer did not report the gain as income. The taxpayer claimed only losses for each year of the activity which offset income from the taxpayer's law practice. The court held that the horse breeding and showing activities were not engaged in with the intent to make a profit because (1) the taxpayer did not keep separate bank accounts or financial records for the activity; (2) the taxpayer did not keep sufficient records to develop a business plan; (3) the taxpayer did not have any written contracts with persons hired to train, care for or show the horses; (4) although the taxpayer had some knowledge of horse breeding and showing, the taxpayer did not have any knowledge of the business of horse breeding or showing; (5) the taxpayer had only losses from the activity, resulting primarily because horses were given away instead of sold; and (6) the taxpayer had other substantial taxable income which was offset by the horse activity losses. **Sanders-Castro v. Comm'r, T.C. Summary Op. 2006-161**.

HYBRID VEHICLE TAX CREDIT. Effective for vehicles placed in service after December 31, 2005, an alternative motor vehicle credit is allowed which is the sum of (1) qualified fuel cell motor vehicle credit, (2) advanced lean burn technology motor vehicle credit, (3) qualified hybrid motor vehicle credit, and (4) qualified alternative fuel motor vehicle credit. I.R.C. § 30B(a). The credits allowed cannot exceed the regular tax reduced by other credits over the tentative minimum tax for the year. I.R.C. § 30B(g)(2). The credits are treated as a general business credit if the vehicle is subject to an allowance for depreciation. I.R.C. § 30B(g)(1). The IRS has announced the vehicle certifications and the credit amounts for three vehicles for the alternative motor vehicle credit, which will expire in the first calendar quarter after the quarter in which Toyota Motor Sales records its sale of the 60,000th vehicle (note: the phaseout of the credit started on October 1, 2006, for Toyota vehicles):

Year and Model	Credit Amount
2007 Toyota Prius	$3,150
2007 Toyota Highlander Hybrid 2WD	$2,600
2007 Toyota Highlander Hybrid 4WD	$2,600
2007 Lexus RX 400h 2WD and 4WD	$2,200

See Harl, "Additional Items in the Energy Policy Act of 2005, 16 *Agric. L. Dig.* 131 (2005). **IR-2006-154**.

IRA. The IRS has announced that active duty military reservists may receive early distributions from certain retirement plans without triggering the 10-percent penalty tax generally imposed on such distributions under I.R.C. § 72(t)(2)(G), as added by the Pension Protection Act of 2006 (Pub. L. No. 109-280). Specifically, early distributions from an IRA (including a Roth IRA) and distributions attributable to elective deferrals under a I.R.C. § 401(k) plan or an I.R.C. § 403(b) annuity, are not subject to the 10-percent penalty. To qualify, the reservist must have been called to active duty between September 11, 2001 and December 31, 2007 and the call up must be for at least 180 days or for an indefinite period. The relief is retroactive so eligible reservists who have already paid tax under I.R.C. § 72(t) may claim a refund using an IRS Form 1040X, Amended U.S. Individual Income Tax Return. An eligible reservist filing for a refund should write "active duty reservist" on the top of the Form 1040X and provide the following details: date of the reservist's military call up, amount of the distribution in question and the amount of early distribution tax paid. **IR-2006-152**.

The taxpayer owned an interest in a pension plan established during employment. The taxpayer retired from employment in 1999 at age 56. In 2002, the taxpayer received an early distribution from the plan and the money was used for personal purposes. The issue was whether the early distribution was subject to the 10 percent penalty for early distributions. The court held that, under I.R.C. § 72(t)(2)(A)(v), the distribution was not subject to the 10 percent penalty because the distribution was made after the taxpayer terminated employment after the taxpayer reached age 55. **Olintz v. Comm'r, T.C. Summary Op. 2006-155**.

INVOLUNTARY CONVERSIONS. The IRS has published a list of the counties and parishes in the United States that have suffered exceptional, severe or extreme drought during the 12 months ending August 31, 2006. The list includes counties in 35 of the 50 states. As authorized in I.R.C. § 1033(e)(2)(B) and implemented in *Notice 2006-82, I.R.B. 2006-39, 529* (see p. 141 *supra)*, an extended replacement period is available for livestock sold on account of extreme weather conditions if those weather conditions continue for more than three years. **Notice 2006-91, I.R.B. 2006-41**.

PENSION PLANS. For plans beginning in October 2006 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities rate for this period is 4.85 percent, the corporate bond weighted average is 5.79 percent, and the 90 percent to 100 percent permissible range is 5.21 percent to 5.79 percent. **Notice 2006-94, I.R.B. 2006-41**.

RETURNS. The IRS has issued a reminder to taxpayers most affected by Hurricane Katrina that the postponed deadline for filing 2004 and 2005 tax returns is October 16, 2006. The deadline applies to taxpayers whose principal residence, principal place of business, tax records or tax professional's office was located in one of 31 Louisiana parishes, 49 Mississippi counties and 11 Alabama counties. The extension applies to 2004 individual Form 1040 tax returns that were originally due on April 15, 2005, and for which taxpayers obtained an extension of time to file until October 15, 2005, and for 2005 individual tax returns of taxpayers in the affected area. The extended deadline also applies to businesses that were affected taxpayers. No further extensions or postponements are available for 2004 tax returns, but an additional six-month filing extension, to April 15, 2007, is available for 2005 tax returns. All requests for extension should be labelled "Hurricane Katrina" at the top in red and should have the taxpayer's estimated tax liability. This extension of time to file is not an extension of time to pay taxes due and any tax not paid will be subject to penalty and interest beginning October 17, 2006, until the tax is paid in full. **IR-2006-151**.

SALES OF SECURITIES. The taxpayer bought and sold securities and claimed to be a trader of securities under I.R.C. § 475(f) eligible for the election to use the mark-to-market method of accounting for the sales. The taxpayer did not make the election with a timely-filed tax return but attempted to make the election on an amended return filed three years later, although the taxpayer also failed to file Form 3115. Although the court did not rule on the issue of whether the taxpayer was a trader under Section 475(f), the court held that the taxpayer was not eligible for the election because the election was not timely made. The court also refused to grant the taxpayer an extension of time to make the election because the taxpayer had waited too long to seek the extension and had not shown a good faith attempt to make the election with the timely-filed return. **Acar v. United States, 2006-2 U.S. Tax Cas. (CCH) ¶ 50,529 (N.D. Calif. 2006)**.

SOCIAL SECURITY TAXES. The taxpayer operated accredited medical residency programs for new doctors who have completed their medical education. The taxpayer withheld and paid FICA taxes on the amounts paid to the medical residents and filed for a refund of those payments, arguing that the medical residents qualified for the student exception under I.R.C. § 3121(b)(10). The IRS sought a summary judgment based on the argument that medical residents as a matter of law could never qualify for the student exception. The court examined *United States v. Mayo Found. For Med. Educ. & Research, 282 F. Supp.2d 997 (D. Minn. 2003)* and *Minnesota v. Apfel, 151 F.3d 742, 748 (8th Cir. 1998)* and held that the determination of whether the stipends paid to medical residents was subject to FICA taxes was to be based on the nature of the relationship between the residents and the payor of the stipend. If the relationship was educational, the student exception applied to relieve the stipends from FICA tax. The court denied the IRS motion for summary judgment. **Center for Family Medicine v. United States, 2006-2 U.S. Tax Cas. (CCH) ¶ 50,535 (D. S.D. 2006)**. **See also The University of Chicago Hospitals v. United States, 2006-2 U.S. Tax Cas. (CCH) ¶ 50,520 (N.D. Ill. 2006)**.

NUISANCE

FEEDLOT. The plaintiffs lived next to a dairy operation. The dairy expanded its operation in 1992 by adding several buildings and an open earthen manure pit. The dairy worked with county personnel to comply with all county regulations for the manure pit and was granted the required permits to construct the pit. In 1994, the plaintiffs complained to the state pollution control agency about the odors from the pit and the state agency investigated the pit, but the state agency found no violation of any state law or regulation. In 1997 the plaintiffs objected at a conditional use permit hearing but did not appeal the decision to grant the permit. In 2002, the plaintiffs filed suit against the dairy, the county and the state, seeking to have the permits voided and an injunction granted against the operation of the pit. The court held that the trial court did not abuse its discretion in denying the injunctive relief based on the doctrine of laches, in that the plaintiffs failed to challenge the permits in a timely manner. The court also upheld the trial court's ruling that the county had substantially complied with the permitting rules in granting the permits for the manure pit. The court also upheld the trial court's ruling that the plaintiffs' suit in nuisance was time-barred on the issue of whether the dairy as expanded was a nuisance at the time the expanded operation commenced. This last issue was important in that it removed one exception from the right-to-farm statute limiting nuisance actions against agricultural operations. **Kuhl v. Halquist Farms, Inc., 2006 Minn. App. Unpub. LEXIS 1123 (Minn. Ct. App. 2006)**.

PROPERTY

PRESCRIPTIVE EASEMENTS. The plaintiff and defendant owned neighboring farms. The plaintiff sought a prescriptive easement to use a road over a portion of the defendant's property for access to several fields. The evidence showed that plaintiff's father had used the road with the permission of several owners of the road. The evidence also included an incident where the plaintiff's son had used the road for unapproved purposes and the defendant had asked the son not to use the road any more. Thus, the court held that the plaintiff's use of the road was permissive and not prescriptive

easement arose from past usage of the road. **Wallace v. Snider. 2006 Mo. App. LEXIS 1450 (Mo. Ct. App. 2006)**.

RESTRICTIVE COVENANTS. The defendant purchased two lots subject to restrictive covenants but did not read the covenants. The defendant used one lot for a residence and the other to operate an alpaca farm, with more than 20 alpacas. The plaintiff homeowner's association filed suit to enforce the restrictive covenant prohibiting more than two animals on a lot. "No chicken, fowl or swine shall be maintained in this allotment. No more than two (2) animals shall be harbored or maintained on each lot." The trial court ruled for the plaintiffs and ordered the defendant to reduce the number of alpacas to four. The defendant argued that the restrictive covenant was unenforceable because the term "animals" was ambiguous. The court held that the use of the term "animals" was sufficiently clear to include alpacas. The defendant also argued that the plaintiffs had waived or abandoned the covenant because they waited more than six years after the defendant purchased the property to enforce the covenant. The court noted that the alpaca farm grew gradually over the years to the point where the operation became more noticeable as a farm; therefore, no waiver occurred. **Ellis v. Patonai, 2000 Ohio App. LEXIS 4996 (Ohio Ct. Ap. 2006)**.

ZONING

AGRICULTURAL USE. The defendant owned a six acre parcel zoned R-1 and used for the raising of 12 to 20 llamas for several years. The municipal ordinance for R-1 zones states that it can be used for raising livestock but limits the livestock (which included cows, horses and similar animals) to one animal for the first two acres and one animal for each additional acre. However, the ordinance stated that the limitations did not apply to "bona fide farming" if the parcel was 10 acres or more. The plaintiff township initiated a misdemeanor prosecution of the defendant for violating the zoning ordinance. The defendant argued that the plaintiff did not operate a farm and that llamas were not cows, horses or similar livestock. The trial court ruled that the defendant did not operate a farming operation because the llamas were kept as pets and not for resale. However, the trial court ruled that the defendant did violate the zoning ordinance in having too many animals on the six acres because llamas were included in the definition of livestock. In a second action for a continuing violation of the ordinance, the defendant raised the right-to-farm act, Mich. Code § 286.471 *et seq*., as a defense to the zoning ordinance. The court held that the defendant's position in the first case that the defendant did not have a farming operation was entitled to res judicata effect as to the right-to-farm issue raised in the second action, thus precluding the defendant from arguing that the defendant was protected by the right-to-farm act as a farming operation. **Township of Armada v. Marah, 2006 Mich. App. LEXIS 2820 (Mich. Ct. App. 2006)**.

IN THE NEWS

USDA RURAL DEVELOPMENT INTRODUCES GUARANTEED UNDERWRITING SYSTEM PILOT

WASHINGTON, D.C., September 28, 2006 - Lenders will soon have the ability to underwrite USDA Section 502, Single Family Housing Guaranteed loans using the new Guaranteed Underwriting System (GUS). GUS was developed by USDA Rural Development to automate a manual underwriting process, which considers loan applications for approval. A unique GUS feature is that it determines a borrower's income and a property's eligibility for the Single Family Housing Guaranteed Loan Program (SFHGLP). "Through the use of cutting-edge technology, GUS will advance President Bush's commitment to increase minority homeownership," said Agriculture Under Secretary for Rural Development Thomas C. Dorr. "This program offers a full service automated underwriting system which will be made available in the future for private sector use." Currently eight lenders are piloting the new system. The genesis of GUS came out of a high-level discussion held three years ago between Dorr and then Federal Housing Administration Commissioner John Weicher on ways to work cooperatively, through sharing of knowledge resources, to automate USDA's manual underwriting process. GUS will enable participating lenders to receive faster loan decisions, streamlined documentation requirements, better quality loans, more consistency in program delivery, and will fulfill legal requirements under the Government Paperwork Elimination Act and the Freedom to E-File Act. Through GUS, the Agency expects to see the majority of loans automatically underwritten, which enhances its ability to manage risk. The Agency will continue to monitor data and changes in the market with the added flexibility of adjusting underwriting standards when necessary. USDA Rural Development began a market test of GUS on August 1, 2006, with a limited number of lenders. Participating lenders in Phase I of the market test are First National Bank of Columbus, Neb.; Allied Mortgage Capital Corporation of Rockwell, Texas; American Southwest Mortgage of Oklahoma City, Okla.; Central National Bank of Junction City, Kan.; Guaranty Trust of Murfreesboro, Tenn.; State Bank of Lincoln of Lincoln, Ill.; The Mortgage Company of Junction City, Kan. and Virginia Housing Development Authority of Richmond, Va. Additional lenders will be added to the market test later this year in preparation for full GUS implementation in January 2007. Section 502 Guaranteed Loans are made to qualifying low- and moderate-income families to purchase modest homes in rural areas. The loans are made by mortgage lenders, such as banks, credit unions and mortgage companies. Loans can be made up to 100 percent of the appraised value of the property. Rural Development guarantees the loan made by the lender in case of default by the borrower." Further information on rural programs is available at a local USDA Rural Development office or by visiting USDA's website at http://www.rurdev.usda.gov

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